



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK**

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**MAY 6, 2013**

Regular meeting of the City Council held on Monday, MAY 6, 2013 at 8:00 p.m. in City Council Chambers, City Hall. City Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, and Landers. Meeting adjourned at 10:06 PM.

ORDERED: That the minutes of the City Council Meeting APRIL 22, 2013, **FILE AS AMENDED**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Application for Fuel Storage Permit, Bunker Floor Supply, 289 Elm St., for storage of 2,844 gallons of flammable liquids and 23,500 gallons of combustible liquids, Order No. 13-1005386., all were heard who wish to be heard, hearing recessed at 8:13 p.m.; adopted.

**Councilors Present: Pope, Ossing, Oram, Robey, Delano, Jenkins, Elder, Tunnera, Seymour, Clancy & Landers.**

ORDERED: It is moved, in conformance with the provision of section 21(a)(3) of Chapter 30A of the General Laws of the Commonwealth, that the Marlborough City Council conduct an executive session for the purpose of discussing litigation strategy:

- 1) regarding a sewer contract dispute involving a property on St. Martin Drive; and
- 2) regarding a contract dispute with a City DPW contractor,

as an open meeting may have a detrimental effect on the litigating position of the City of Marlborough, and the chair hereby declares that an open meeting may have that effect.

It is further moved and stated that the Marlborough City Council will re-convene in open session after the executive session, **APPROVED**; adopted.

**Yea: 11- Nay: 0**

**Yea: Delano, Jenkins, Elder, Tunnera, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey**

ORDERED: That there being no objection thereto set **MONDAY, MAY 20, 2013** as date for a **PUBLIC HEARING** for the proposed FY14 budget as submitted by Mayor Vigeant in the amount of \$132,923,877.00 for review and appropriation in which this spending plan reflects an increase of 4.89% over the approved Fiscal Year 2013 budget, be and is herewith refer to **FINANCE COMMITTEE AND ADVERTISE**; adopted.

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 125, ENTITLED "PERSONNEL," AS FOLLOWS:

POSITION	EFFECTIVE DATE	MINIMUM 1 <sup>st</sup> 6 mos.	STEP 1 2 <sup>nd</sup> 6 mos.	STEP 2 Next 12 mos.	MAXIMUM
Comptroller/Treasurer	7/1/13	101,695.70	105,763.28	109,994.07	114,393.83

Refer to **FINANCE COMMITTEE**; adopted.

ORDERED: That the MEDC (Marlborough Economic Development Corporation) transfer request in the amount of \$499,000.00 which moves funds from Economic Development to MEDC Funding to fully fund the operations of the MEDC for FY14, refer to **FINANCE COMMITTEE**; adopted.

FROM:

Acct. 27000099-42440 \$499,000.00  
 Economic Development

TO:

Acct. # 11740006-53950 \$499,000.00  
 MEDC Funding

ORDERED: That the Fire Department transfer request in the amount of \$46,931.99 which moves funds from and to various accounts as noted on the attached spreadsheet to fund overtime costs incurred due to injuries and other medical absences in the department, refer to **FINANCE COMMITTEE**; adopted.

BUDGET TRANSFERS --									
DEPT: FIRE					FISCAL YEAR: FY13				
FROM ACCOUNT:					TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$66,461.25	\$6,055.02	12200001	50800	Fire Captain	\$6,055.02	12200006	52560	Vehicle repair & maint.	\$2,895.49
	Reason:	Transfer is available due to 111F payments				Aging fleet requiring more repairs			
\$615,771.24	\$13,944.98	12200001	50450	Firefighter	\$13,944.98	12200006	52560	Vehicle repair & maint.	\$2,895.49
	Reason:	Transfer is available due to 111F payments				Aging fleet requiring more repairs			
\$615,771.24	\$26,931.99	12200001	50450	Firefighter	\$26,931.99	12200003	51300	Overtime	\$79,087.62
	Reason:	Transfer is available due to 111F payments							

ORDERED: That the Employee Retirement Benefits transfer request in the amount of \$28,834.20 which moves funds from and to various accounts as noted on the attached spreadsheet which will fund the unused sick leave and vacation payouts associated with the retirement of a long term employee of the City, refer to **FINANCE COMMITTEE**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:		Fringe				FISCAL YEAR:			
		FROM ACCOUNT:				TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$454,218.00	\$18,736.20	11990006	51500	Fringe	\$18,736.20	11330001	50015	Comptroller	\$14,689.54
		Reason: Retirement Payout of Vacation							
	\$1,000.00	11990006	51500	Fringe	\$1,000.00	11330003	51920	Sick Leave	\$0.00
		Reason: Retirement Payout Sick Leave							
	\$6,245.00	11990006	51500	Fringe	\$6,245.00	11330002	50062	Finance Asst.	\$25,886.09
		Reason: Employee Resignation Payout Vacation Time							
	\$2,853.00	11990006	51500	Fringe	\$2,853.00	11330003	51920	Sick Leave	\$0.00
		Reason: Employee Resignation Payout Sick Time							
	\$28,834.20	Total			\$28,834.20	Total			

ORDERED: That the Board of Health transfer request in the amount of \$2,014.00 and \$600.00 which moves funds from Professional & Technical to Assistant Sanitarian and from Advertising to Assistant Sanitarian respectively to provide additional support for inspections for food service and pools, and short term leave of absence for an employee, **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
DEPT:		Board of Health				FISCAL YEAR:			
						FY 2013			
		FROM ACCOUNT:				TO ACCOUNT:			
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance
\$2,014.02	\$2,014.02	15120006	53180	Professional/Technical	\$2,014.02	15120001	50611	Assistant Sanitarian	\$8,311.36
		Reason: Professional/Technical funds have not been used				Funds used to pay for temorary food/pool inspector			
	\$600.00	15120004	53150	Advertising	\$600.00	15120001	50611	Assistnat Sanitarian	\$8,311.36
		Reason: Advertising funds not spent to date				Funds used to pay for temporary food/pool inspector			

ORDERED: That the Personnel transfer request in the amount of \$2,000.00 and \$1,500.00 which moves funds from Advertising and Conference and Training respectively to Medical Exams to cover expenses associated with the Civil Service hiring and employment process, **APPROVED**; adopted.

FROM:

Acct. 11520004-53150 \$2,000.00

Advertising

Acct. 11520006-57380 \$1,500.00

Conference and Training

TO:

Acct. # 11520004-53010 \$3,500.00

Medical Exams

ORDERED: That the Building Department transfer request in the amount of \$300.00 which moves funds from Professional & Technical to Advertising and Board Secretary respectively to ensure adequate funding for additional cases that may come before the Zoning Board of Appeals and Planning Board before the end of the fiscal year, **APPROVED**; adopted.

FROM:

Acct. 12410004-53180 \$300.00

Professional and Technical

TO:

Acct. # 12410004-53150 \$150.00

Advertising

Acct. # 12410004-50150 \$150.00

Board Secretary

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Logical Partners LLC Special Permit, 126 Pleasant St., in amended proper legal form, Order No. 12/13-1005151G, **MOVED TO ITEM 29**; adopted.

**Councilor Tunnera abstained**

ORDERED: That the Communication from City Solicitor, Donald Rider, re: Results Way Mixed Use Overlay District, in proper legal form, Order No. 12/13-1005154E, **MOVED TO ITEM 25**; adopted.

**MOTION** made by President Pope to move the question pertinent to waiving of building fees – Carries

ORDERED: That the Communication from Assabet Valley Regional Vocational School District Superintendent Mary Jo Nawrocki re: Waiving Building Fees for Construction of the \$62.4 Million Dollar Assabet Valley Regional Vocational School District project to be located in Marlborough, **DENIED**; adopted.

ORDERED: That the Communication from MassDevelopment re: Preliminary Approval to Issue a Revenue Bond on behalf of the STEM Soaring Eagles Foundation, Inc., refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **Monday, June 17, 2013** as date for a **PUBLIC HEARING** on the Application for Special Permit from Mirick O'Connell, on behalf of Sandra & Anthony Antico Real Estate LLC, for indoor recreation area that will include various children's entertainment features that can be used by children under the supervision of their parents or guardians for birthday parties and on other special occasions, 72 Jefferson St., refer to **URBAN AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Application of Best Buy Store #1966, 601 Donald Lynch Blvd for Renewal of Junk Dealer's License, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Application of Best Buy Store #820, 769 Donald Lynch Blvd. for Renewal of Junk Dealer's License, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication from Central Mass. Mosquito Control Project re: Earth Day 2013, **FILED**; adopted.

ORDERED: That the Communication from Department of Public Utilities, Condensed Financial Return for Year End December 31, 2012, **FILED**; adopted.

ORDERED: That the Minutes, Advisory Committee for the New Senior Center, March 19, 2013, **FILED**; adopted.

ORDERED: That the Minutes, Planning Board, April 8, 2013, **FILED**; adopted.

ORDERED: That the Minutes, Traffic Commission, March 26, 2013, **FILED**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- A. Thomas Tucker, 11 Hawkins Lane, other property damage,
- B. Peter Kuchinsky, 165 Cameron Dr., residential mailbox claim 2(a)
- C. Barry Hilts, 184 Robert Rd., residential mailbox claim 2(a)

#### **Suspension of Rules requested – granted**

ORDERED: That the Communication from MetroPCS Massachusetts, LLC re: request to extend time limitations on Application for Special Permit, 98 Pleasant St. to install wireless communication facility onto the existing building to July 23, 2013 until 12:59 PM., Order No. 12/13-1005122D, **APPROVED**; adopted.

#### **Councilor Tunnera abstained**

ORDERED: That the City Council of the City of Marlborough hereby approves the following:

1) By a super majority (2/3) vote pursuant to Chapter 650-33.C(1) of the City's Zoning Ordinance, the City Council hereby approves the Master Concept Plan presented by Atlantic-Marlboro Realty, LLC on a plan entitled, "Forest Park – Master Plan, Marlborough, MA," dated April 16, 2013, drawn by SMMA (Symmes Maini & McKee Associates); and

2) By a separate super majority (2/3) vote pursuant to Chapter 650-33.C(2) of the City's Zoning Ordinance, the City Council hereby approves the Development Agreement by and between Atlantic-Marlboro Realty, LLC and the City of Marlborough.

**APPROVED**; adopted.

ORDERED: That the Appointment of Lynn Anderson as a member of the Council on Aging for a term of four years to expire on the 1<sup>st</sup> Monday in May following a City Council meeting, **APPROVED**; adopted.

ORDERED: That the Reappointment of Chief Procurement Officer, Beverly Sleeper for a term of three years expiring on the anniversary date of her confirmation by City Council, **APPROVED**; adopted.

ORDERED: That the Petition from NGrid to install six new heavy duty hand holes in the area of Bigelow Heights, URD, Bergeron Rd, Ahlgren Circle, Duca Dr., Rodgers Ave., Evelina Dr. and Houde St., **APPROVED WITH THE FOLLOWING CONDITIONS**, adopted.

- 1) Any necessary easements are to be obtained from affected property owners and shown on proposed plans.
- 2) A street opening permit must be applied for by the proposed contractor performing the work.
- 3) The contractor performing the work must obtain a street opening bond with the City of Marlborough for an amount to be determined by the City Engineer.
- 4) The contractor is to provide the Engineering Division preconstruction photos of driveways, sidewalks, lawn areas, and roadway areas impacted by all construction activities.
- 5) The contractor is to coordinate with the affected residents to have irrigation systems flagged before trenching begins and provide them a timetable of the proposed work.
- 6) A proper staging area is to be located/acquired before work commences – material and equipment is not to be parked/stockpiled within the city right of way.
- 7) The contractor is to ensure residents are always able to enter and exit their driveways (have necessary steel plating on site and accessible).
- 8) Ensure construction safety controls are established (signage, drums, police details, etc...) and are in accordance with the latest MUTCD standards.
- 9) Trench backfilling, compacting, temporary, and final paving are to be done in accordance with the City of Marlborough standard trenching details.
- 10) Trenches are to be paved or completely backfilled and compacted at the end of each work day. Trenches are never to be left unattended.
- 11) Post construction loaming and seeding are to be done in accordance with the 1995 MHD Standard Specifications sections 751 & 765.
- 12) Entire width of sidewalk (from back of curb to back of sidewalk) is to be included in final trench paving – any disturbed curbing is to be replaced.
- 13) If wetlands are within 100 feet of any excavation, all flagging should be done by the applicant, notification give to and proper permitting should be obtained from the Conservation Commission.

**SPECIAL PERMIT  
LOGICAL PARTNERS LLC  
CITY OF MARLBOROUGH, MA  
CITY COUNCIL ORDER 12/13-1005151G**

The City Council of the City of Marlborough hereby **GRANTS** the Application for Special Permit of Applicant, as provided in the Decision and **SUBJECT TO THE FOLLOWING FINDINGS OF FACT AND CONDITIONS:**

**EVIDENCE**

1. The Applicant is Logical Partners LLC, a Massachusetts LLC with a principal place of business at 241 Boston Post Road West, 1<sup>st</sup> Floor, Marlborough, MA 01752 (the "Applicant").
2. The location of the proposed project is 126 Pleasant Street, Marlborough, MA and more particularly identified on the City of Marlboro Assessor's Map as Lot 466 of Map 68, and furthermore particularly described in a deed recorded with the Middlesex South District Registry of Deeds, Book 58142, Page 503 (the "Site").
3. The Applicant seeks a Special Permit to construct three (3) residential Townhouse style Condominium units on the Site (the "Project").
4. The Applicant is the Owner for the purpose of this Special Permit Application (the "Application").
5. The property is located in zoning district Residence B (RB), which allows multifamily dwellings as a matter of special permit.
6. The Building Inspector, acting on behalf of the City Planner, provided a Certificate of Completeness of Application as required by Para. 7 of the Rules and Regulations of Application/Petition for Special Permit by the City of Council under the Marlborough Zoning Ordinance, Chapter 650-59.
7. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for a Special Permit to demolish the current structures at the Site and construct three (3) residential Townhouse style Condominium units on the Site.
8. The Applicant obtained all necessary zoning variances to allow its project to proceed, said variance being recorded with the Middlesex South District Registry of Deeds, Book 59143, Page 190.
9. A public hearing was held on October 15, 2012, in compliance with the requirements of the Code of the City of Marlborough and by the provisions of MGL Chapter 40A, as amended, and all necessary abutters were provided notice as required by law, as certified by the Office of the Board of Assessors of Marlborough. The time for the City Council to take final action on the Application was timely extended by the parties' agreement to May 15, 2013.
10. The Applicant presented oral testimony and demonstrative evidence at the public hearing and demonstrated that the Project meets all applicable Special Permit criteria provided by MGL Chapter 40A, as amended, and the Code of the City of Marlborough including, without limitation, Article VII, Section 650, Paragraph 40, Subparagraph B, and generally Section 650-59.

11. The plan submitted with the Application is entitled "Preliminary Site Plan, 126 Pleasant Street, Marlborough, MA," Prepared for Logical Partners LLC, 241 Boston Post Road West, 1<sup>st</sup> Floor, Marlborough, MA 01752; Owned by Logical Partners LLC, 241 Boston Post Road West, 1<sup>st</sup> Floor, Marlborough, MA 01752; Prepared by Thomas Land Surveyors & Engineering Consultants, Inc., 265 Washington Street, Hudson, MA 01749, scale 1" = 20', dated June 28, 2012 and revised October 11, 2012, December 11, 2012 and February 25, 2013 (the "Plan"), attached hereto as "Attachment A."

**BASED ON THE ABOVE, THE MARLBOROUGH CITY COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND TAKES THE FOLLOWING ACTIONS:**

The City Council, pursuant to its authority under MGL Chapter 40A and the City of Marlborough Zoning Ordinance, Chapter 650, **GRANTS** the Applicant a Special Permit, **SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The Applicant has complied with all the Rules and Regulations promulgated by the Marlborough City Council as they pertain to the Application for a Special Permit to construct three (3) residential Townhouse style Condominium units on the Site.
2. The Marlborough City Council finds that all necessary Fees for the proposed Special Permit have been paid.
3. The Marlborough City Council finds that the Application was properly completed and filed by Applicant, and that all necessary abutters were provided notice as required by law, as certified by the Office of the Board of Assessors of Marlboro prior to Application submission.
4. The Plan accompanying said Application was completed in accordance with the all applicable Rules and Regulations.
5. The Summary Impact Statement filed with said Application is sufficient for said Application and that no further studies or requirements are necessary.
6. The City Department reports as required by the Code of the City of Marlborough have been received and incorporated as deemed appropriate by the said Marlborough City Council into this final decision.
7. The Marlborough City Council finds generally that the use sought by Applicant and its impact and characteristics is not in conflict with the public health, safety, convenience and welfare and is not detrimental or offensive; and further, that the use of the Site for three (3) residential Townhouse style Condominium units is appropriate for the Site and does not derogate from the intent and purpose of MGL Chapter 40A and/or the Code for the City of Marlborough.
8. The Marlborough City Council therefore **GRANTS** to the Applicant a Special Permit to construct three (3) Residential Townhouse Units on the Site, pursuant to its authority under MGL Chapter 40A and the Code of the City of Marlboro, **with the following conditions:**

- A. The Marlborough City Council conditions its approval on subsequent Site Plan Review and approval as provided under Chapter 270, Building and Site Development. The Plan may be subject to modification by the Site Plan Review Committee to the extent allowed by the Code of the City of Marlborough. Other conditions and limitations may be imposed at the time of the final Site Plan Approval by said Committee, which are not inconsistent with any term or condition attached to this Special Permit.
- B. The applicant will work with Site Plan Review to coordinate minor cosmetic and mutually acceptable modifications to the building and/or site to make the same more Colonial in appearance so as to fit into the neighborhood.
- C. The drainage from the site shall be reviewed during the Site Plan Review process to ensure that any excess drainage is adequately mitigated.
- D. The building will be protected by an automatic sprinkler system under a NFPA Section 13R installation due to the low water pressure in the area and proposed garage spaces.
- E. All existing structures and improvements at the Site will be removed pursuant to Code and subject to the approval of the Marlborough Building Inspector and the resulting residue disposed of in accordance with all applicable Federal, State, and municipal statutes, rules and regulations; in particular, within ninety (90) days after approval of this Special Permit, the Applicant shall remove the barn from the Site.
- F. Construction of the three (3) new Single-Family Townhouse Condominium units is to be in accordance with all applicable building codes currently in effect in the City of Marlborough.
- G. Pursuant to recommendations from the Urban Affairs Committee of the Marlborough City Council, the number of bedrooms for each Unit has been reduced from three (3) bedrooms to (2) bedrooms. Accordingly, each Unit will contain no more than two (2) bedrooms, be approximately 1,400 square feet, and will otherwise be substantially similar to that as shown on a 10-page set of plans entitled Project Description – Pleasant St. Project,” Builder: Lisboa; Builder’s customer: spec; Prepared by Westchester Modular Homes, Inc., 30 Reagans Mill Rd., Wingdale, NY 12594; scale ¼” = 1””; dated July 6, 2012 and revised on July 11, 2012, July 16, 2012, August 22, 2012, February 24, 2013 and March 4, 2013, attached hereto as “Attachment B.” The Units will be serviced by public water and public sewer separately metered.
- H. All Units shall consist of (2) bedrooms and shall be required to be owner-occupied, i.e., no leasing shall be allowed; and a restriction for same shall be inserted into the Master Deed creating the Condominium, and shall also be incorporated into the Unit deed for each Unit conveyed by Applicant, its successors and assigns.

- I. Existing building sewers or portions thereof may be used in connection with new construction only when they are found, on examination and testing by the Marlborough Commissioner of Public Works, to meet all Code requirements. The applicant will be required to confirm the size, material, slope, and condition of the existing sewer service. This can be accomplished via test pits and/or video-taping of the existing sewer service. A single service to the proposed building shall only be allowed if allowed and approved by the Marlborough Department of Public Works.
- J. In accordance with the provisions of M.G.L. c. 40A, § 11, the Applicant at its expense shall record this Special Permit in the Middlesex South District Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before the Applicant shall apply to the Building Inspector for a building permit concerning the Project. Applicant shall provide a copy of the recorded Special Permit to the City Council's office and to the City Solicitor's office.
- K. All work performed at the Site shall be in compliance with this Special Permit decision. No other building or construction shall occur or happen without a change or modification of this Special Permit.
- L. Applicant shall provide side yard and rear yard fencing as depicted on the Plan.

**Yea: 9 - Nay: 1 – Abstained: 1**

**Yea: Jenkins, Elder, Seymour, Clancy, Landers, Ossing, Pope, Oram & Robey**

**Nay: Delano**

**Abstained: Tunnera**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 10:06 PM.